

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

FILED  
U.S. DISTRICT COURT  
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S.D. OF N.Y.W.P.

-----X  
MALIBU MEDIA, LLC,

Plaintiff,

vs.

JOHN DOE subscriber assigned IP address  
98.15.219.245,

Defendant.  
-----X

Civil Action No. \_\_\_\_\_

**COMPLAINT – ACTION FOR  
DAMAGES FOR PROPERTY  
RIGHTS INFRINGEMENT**

**14 CV. 8895**

JUDGE BRICCETTI

Plaintiff, Malibu Media, LLC, sues Defendant John Doe subscriber assigned IP address  
98.15.219.245, and alleges:

**Introduction**

1. This matter arises under the United States Copyright Act of 1976, as amended, 17  
U.S.C. §§ 101 et seq. (the “Copyright Act”).

2. Defendant is a persistent online infringer of Plaintiff’s copyrights. Indeed,  
Defendant’s IP address as set forth on Exhibit A was used to illegally distribute each of the  
copyrighted movies set forth on Exhibit B.

3. Plaintiff is the registered owner of the copyrights set forth on Exhibit B (the  
“Copyrights-in-Suit”).

**Jurisdiction And Venue**

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §  
1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair  
competition).

5. Plaintiff used proven IP address geolocation technology which has consistently worked in similar cases to ensure that the Defendant's acts of copyright infringement occurred using an Internet Protocol address ("IP address") traced to a physical address located within this District, and therefore this Court has personal jurisdiction over the Defendant because (i) Defendant committed the tortious conduct alleged in this Complaint in this State, and (ii) Defendant resides in this State and/or (iii) Defendant has engaged in substantial and not isolated business activity in this State.

6. Based upon experience filing over 1,000 cases the geolocation technology used by Plaintiff has proven to be accurate to the District level in over 99% of the cases.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because: (i) a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (ii) the Defendant resides (and therefore can be found) in this District and resides in this State; additionally, venue is proper in this District pursuant 28 U.S.C. § 1400(a) (venue for copyright cases) because Defendant or Defendant's agent resides or may be found in this District.

### **Parties**

8. Plaintiff, Malibu Media, LLC, (d/b/a "X-Art.com") is a limited liability company organized and existing under the laws of the State of California and has its principal place of business located at 409 W. Olympic Blvd., Suite 501, Los Angeles, CA, 90015.

9. Plaintiff only knows Defendant by his, her or its IP Address. Defendant's IP address is set forth on Exhibit A.

10. Defendant's Internet Service Provider can identify the Defendant.

**Factual Background**

*I. Defendant Used the BitTorrent File Distribution Network To Infringe Plaintiff's Copyrights*

11. The BitTorrent file distribution network (“BitTorrent”) is one of the most common peer-to-peer file sharing systems used for distributing large amounts of data, including, but not limited to, digital movie files.

12. BitTorrent’s popularity stems from the ability of users to directly interact with each other in order to distribute a large file without creating a heavy load on any individual source computer and/or network. The methodology of BitTorrent allows users to interact directly with each other, thus avoiding the need for intermediary host websites which are subject to DMCA take down notices and potential regulatory enforcement actions.

13. In order to distribute a large file, the BitTorrent protocol breaks a file into many small pieces called bits. Users then exchange these small bits among each other instead of attempting to distribute a much larger digital file.

14. After the infringer receives all of the bits of a digital media file, the infringer’s BitTorrent client software reassembles the bits so that the file may be opened and utilized.

15. Each bit of a BitTorrent file is assigned a unique cryptographic hash value.

16. The cryptographic hash value of the bit (“bit hash”) acts as that bit’s unique digital fingerprint. Every digital file has one single possible cryptographic hash value correlating to it. The BitTorrent protocol utilizes cryptographic hash values to ensure each bit is properly routed amongst BitTorrent users as they engage in file sharing.

17. The entirety of the digital media file also has a unique cryptographic hash value (“file hash”), which acts as a digital fingerprint identifying the digital media file (e.g. a movie). Once infringers complete downloading all bits which comprise a digital media file, the

BitTorrent software uses the file hash to determine that the file is complete and accurate.

18. Plaintiff's investigator, IPP International UG, established a direct TCP/IP connection with the Defendant's IP address as set forth on Exhibit A.

19. IPP International UG downloaded from Defendant one or more bits of each of the digital movie files identified by the file hashes on Exhibit A.

20. Defendant downloaded, copied, and distributed a complete copy of Plaintiff's movies without authorization as enumerated on Exhibit A.

21. Each of the cryptographic file hashes as set forth on Exhibit A correlates to a copyrighted movie owned by Plaintiff as identified on Exhibit B.

22. IPP International UG downloaded from Defendant one or more bits of each file hash listed on Exhibit A. IPP International UG further downloaded a full copy of each file hash from the BitTorrent file distribution network and confirmed through independent calculation that the file hash matched what is listed on Exhibit A. IPP International UG then verified that the digital media file correlating to each file hash listed on Exhibit A contained a copy of a movie which is identical (or alternatively, strikingly similar or substantially similar) to the movie associated with that file hash on Exhibit A. At no time did IPP International UG upload Plaintiff's copyrighted content to any other BitTorrent user.

23. IPP International UG connected, over a course of time, with Defendant's IP address for each hash value as listed on Exhibit A. The most recent TCP/IP connection between IPP and the Defendant's IP address for each file hash value listed on Exhibit A is included within the column labeled Hit Date UTC. UTC refers to Universal Time which is utilized for air traffic control as well as for computer forensic purposes.

24. An overview of the Copyrights-in-Suit, including each hit date, date of first

publication, registration date, and registration number issued by the United States Copyright Office is set forth on Exhibit B.

25. Plaintiff's evidence establishes that Defendant is a habitual and persistent BitTorrent user and copyright infringer.

**Miscellaneous**

26. All conditions precedent to bringing this action have occurred or been waived.

27. Plaintiff has retained counsel and is obligated to pay said counsel a reasonable fee for its services.

**COUNT I**  
**Direct Infringement Against Defendant**

28. The allegations contained in paragraphs 1-27 are hereby re-alleged as if fully set forth herein.

29. Plaintiff is the owner of the Copyrights-in-Suit, as outlined in Exhibit B, each of which covers an original work of authorship.

30. By using BitTorrent, Defendant copied and distributed the constituent elements of each of the original works covered by the Copyrights-in-Suit.

31. Plaintiff did not authorize, permit or consent to Defendant's distribution of its works.

32. As a result of the foregoing, Defendant violated Plaintiff's exclusive right to:

(A) Reproduce the works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;

(B) Redistribute copies of the works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501;

(C) Perform the copyrighted works, in violation of 17 U.S.C. §§ 106(4) and 501, by showing the works' images in any sequence and/or by making the sounds accompanying the

works audible and transmitting said performance of the works, by means of a device or process, to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definitions of "perform" and "publically" perform); and

(D) Display the copyrighted works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works nonsequentially and transmitting said display of the works by means of a device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101's definition of "publically" display).

33. Defendant's infringements were committed "willfully" within the meaning of 17 U.S.C. § 504(c)(2).

WHEREFORE, Plaintiff respectfully requests that the Court:

(A) Permanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works;

(B) Order that Defendant delete and permanently remove the digital media files relating to Plaintiff's works from each of the computers under Defendant's possession, custody or control;

(C) Order that Defendant delete and permanently remove the infringing copies of the works Defendant has on computers under Defendant's possession, custody or control;

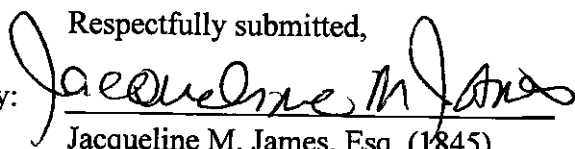
(D) Award Plaintiff statutory damages per infringed Work pursuant to 17 U.S.C. § 504-(a) and (c);

(E) Award Plaintiff its reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and

(F) Grant Plaintiff any other and further relief this Court deems just and proper.

**DEMAND FOR A JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,  
By:   
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*Attorneys for Plaintiff*

## File Hashes for IP Address 98.15.219.245

ISP: Time Warner Cable

Physical Location: Pleasant Valley, NY

Hit Date UTC	File Hash	Title
10/01/2014 00:05:34	957170E4DA93002449D455E16CD72C0C76414A24	Fucking Goddesses
09/19/2014 22:48:42	0C485A86BB4EB968F1BDCD9D362FF25C98C72879	Fun For Three
09/14/2014 08:22:17	84F642A964EEF8F5184D101148840368A2DB718C	Lisas Hidden Cam
09/01/2014 01:15:02	BDEBC6312761D8E5223135F25155CE1730D74E5F	Tiffanys Tight Ass
08/25/2014 11:28:48	7A4995CAD71D31FF581945E35ABE694C7EDE32DC	Paint Me White
08/18/2014 03:53:52	EF663D206331C330BDBAD60DE59F75F1315A293D	Elevated Erotica
07/27/2014 13:49:06	219F3C676427D47A0AFD296992A3DBEBEC81068C	Highrise Rendezvous
07/16/2014 04:00:06	61C6B894FC9D577FC3C630535621FF80874FF77A	Yours Forever
07/05/2014 05:11:45	7CB883A141A93B50A6BDB536F4ECDC4AA25C30D1	Tie Her Up For Me
06/19/2014 23:36:38	8D357CC8A76374C2534F5B6C92DFA6373DD18A48	Coming Late
06/06/2014 11:16:38	84ABF3B1B881BF16E463DEE19669223AB87B562F	Sex With Glasses
06/02/2014 01:27:39	17E9C7AAB73C2845D20844533DD246E8A8A81F03	From Three to Four Part 2
05/17/2014 22:06:21	9B2D98987560366CA5F58EC444BC76A49A868BA1	Meet My Lover From Austria
05/08/2014 05:38:54	0A05FD57476DB076D85453C9C23FEF5794899100	Perfect Timing
04/20/2014 20:42:09	D7967F3B32132CF925D535059A208B2FA4DEB59F	Group Sex
04/09/2014 22:40:10	E3D0ECD62AC239734AF56342913472D0757B4E64	Not Alone
03/17/2014 22:02:13	D0C370A2CE5A1D80F4D913E2214E997EB801D658	All Oiled Up
03/10/2014 05:47:06	8C6F7B93472842C4DBD081201056822BEF60C625	Sweet Dreamers
03/07/2014 22:12:01	6C3CA4F93DC64C8A1EAF8DB79ECCC1EAD1634177	Making Music
03/06/2014 04:09:04	B5B43E4DB872B1542BE930D603EE869ECBF0AE6D	Trophy Wife
02/27/2014 02:22:13	360103097682162BED6E1AF48A07B84BD0E5B7C6	I Am In the Mood
02/08/2014 02:08:52	85E12154C5682384996C362A4F88F18E29252F5F	Submissive Seduction

EXHIBIT A

SNY32



Hit Date UTC	File Hash	Title
02/06/2014 01:46:17	4EAF12772FE00F106FD91610E5325F1BFF87C75A	Three Way is the Best Way
01/28/2014 04:28:45	5320BFD3FB93A574ACF86561A72115E9AD79320C	I Can Not Wait
01/25/2014 23:31:37	2DD8681E585A4C365B2BC5C1FDF5D642B1A3CABF	So Young
01/04/2014 16:33:29	D842D89D2B6CDBC30C1AD9F18F75B573BAC560D7	Zeppelin on Fire
12/30/2013 07:45:25	4C8FB3CEF10089626BB2960266674052E174EC2F	Photo Finish
12/26/2013 04:10:07	999AB8996B35673D65C5C7BCBB92247155EABC83	A Christmas Story
12/21/2013 01:17:14	36E350AC2A4B2CEEBCF3939C8A5154EB2F4EB0A7D	Fantasy Come True
12/18/2013 03:54:29	FD0B269279B7F1330CE463A47F61C4998D4D1F2D	Model Couple on Vacation
12/09/2013 03:02:26	EA9871DB824159E8431575BE1EF3965DD0C6D0C6	Good Night Kiss
12/07/2013 02:10:56	4CC36EB333221192823BE772CA0D3C7B2E0D873A	Ready for Love
11/25/2013 03:22:32	4D48C50B8394CD2C150BAA1E1666D242CE487F52	Tease and Please
11/07/2013 05:16:30	9B69FA926B10031A5E238EECDE29C47F1D56CDEB	Lovers at Home
09/27/2013 10:23:03	6AFD23904D4B47B58B0EC42120140DF80270E89C	Love with a View
09/15/2013 06:12:27	A1EEE32071A86516C0B31A75DA6414DB4B464ADE	Let Me Take Your Picture
09/13/2013 06:42:51	3D1E25F6381E29ABC1ACD8D88D6461A378020D29	Wake Me Up Like This
08/25/2013 16:27:38	715F5C4818D2C8ECF9ABD440787461AD6B1269AE	I Love James Deen
08/08/2013 19:03:34	A5D4830AAE367E3FB6371C30BEE5E226477FB9E4	This Really Happened
07/27/2013 14:43:52	A803FE90441F1954E48C4B183DCD2E042462595E	Make me Feel Beautiful
07/24/2013 03:35:28	38807327F4A38D5C5EB50A416FB8F5909762379B	Up Close and Personal
07/16/2013 09:22:13	77D8ABCD5C0A47F3EFBD65F3EAAB51799AFB9D5B	Pool Party For Three
07/15/2013 18:27:14	15BA17CD92174349B7AF63FCF8FCDFDD434EC9DA	Hot Chocolate
04/30/2013 20:25:14	11BBD0678BDD5759E5D8BB9B0CB398ADB9A7D2E2	The Sleepover

**Total Statutory Claims Against Defendant: 44**

## Copyrights-In-Suit for IP Address 98.15.219.245

ISP: Time Warner Cable

Location: Pleasant Valley, NY

Title	Registration Number	Date of First Publication	Registration Date	Most Recent Hit UTC
A Christmas Story	PA0001874527	12/24/2013	12/30/2013	12/26/2013
All Oiled Up	PA0001885187	03/15/2014	03/24/2014	03/17/2014
Coming Late	PA0001904286	06/19/2014	06/24/2014	06/19/2014
Elevated Erotica	PA0001909513	08/17/2014	08/26/2014	08/18/2014
Fantasy Come True	PA0001874629	12/19/2013	12/26/2013	12/21/2013
From Three to Four Part 2	PA0001902970	06/01/2014	06/06/2014	06/02/2014
Fucking Goddesses	PA0001916051	09/30/2014	10/06/2014	10/01/2014
Fun For Three	PA0001914731	09/19/2014	09/22/2014	09/19/2014
Good Night Kiss	PA0001872970	12/08/2013	12/11/2013	12/09/2013
Group Sex	PA0001892182	04/19/2014	04/29/2014	04/20/2014
Highrise Rendezvous	PA0001908213	07/25/2014	07/31/2014	07/27/2014
Hot Chocolate	PA0001859657	07/11/2013	08/02/2013	07/15/2013
I Am In the Mood	PA0001880672	02/25/2014	02/27/2014	02/27/2014
I Can Not Wait	PA0001877473	01/27/2014	01/31/2014	01/28/2014
I Love James Deen	PA0001860982	08/20/2013	09/10/2013	08/25/2013
Let Me Take Your Picture	PA0001862486	09/14/2013	09/18/2013	09/15/2013
Lisas Hidden Cam	PA0001914534	09/11/2014	09/16/2014	09/14/2014
Love with a View	PA0001863369	09/25/2013	09/27/2013	09/27/2013
Lovers at Home	PA0001868816	11/05/2013	11/10/2013	11/07/2013
Make me Feel Beautiful	PA0001859651	07/25/2013	08/01/2013	07/27/2013
Making Music	PA0001883769	03/07/2014	03/22/2014	03/07/2014

EXHIBIT B

SNY32

<b>Title</b>	<b>Registration Number</b>	<b>Date of First Publication</b>	<b>Registration Date</b>	<b>Most Recent Hit UTC</b>
Meet My Lover From Austria	PA0001898094	05/17/2014	06/06/2014	05/17/2014
Model Couple on Vacation	PA0001874613	12/17/2013	12/26/2013	12/18/2013
Not Alone	PA0001889410	04/09/2014	04/15/2014	04/09/2014
Paint Me White	PA0001909785	08/24/2014	08/26/2014	08/25/2014
Perfect Timing	PA0001895848	05/07/2014	05/16/2014	05/08/2014
Photo Finish	PA0001874616	12/29/2013	01/05/2014	12/30/2013
Pool Party For Three	PA0001859656	07/13/2013	08/01/2013	07/16/2013
Ready for Love	PA0001872968	12/05/2013	12/07/2013	12/07/2013
Sex With Glasses	PA0001903914	06/05/2014	06/12/2014	06/06/2014
So Young	PA0001877472	01/25/2014	01/31/2014	01/25/2014
Submissive Seduction	PA0001878420	02/07/2014	02/13/2014	02/08/2014
Sweet Dreamers	PA0001883771	03/09/2014	03/24/2014	03/10/2014
Tease and Please	PA0001871937	11/23/2013	11/29/2013	11/25/2013
The Sleepover	PA0001838600	04/23/2013	04/28/2013	04/30/2013
This Really Happened	PA0001860970	08/03/2013	09/01/2013	08/08/2013
Three Way is the Best Way	PA0001878426	02/04/2014	02/13/2014	02/06/2014
Tie Her Up For Me	PA0001906551	07/03/2014	07/14/2014	07/05/2014
Tiffanys Tight Ass	PA0001912772	08/30/2014	09/17/2014	09/01/2014
Trophy Wife	PA0001883767	03/05/2014	03/22/2014	03/06/2014
Up Close and Personal	PA0001859653	07/21/2013	08/01/2013	07/24/2013
Wake Me Up Like This	PA0001862289	09/01/2013	09/08/2013	09/13/2013
Yours Forever	PA0001907573	07/15/2014	07/25/2014	07/16/2014
Zeppelin on Fire	PA0001874614	01/04/2014	01/05/2014	01/04/2014

**Total Malibu Media, LLC Copyrights Infringed: 44**